

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

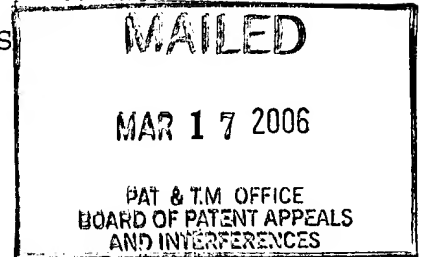
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CORNELIS A.M. JASPERS

Appeal No. 2006-0527
Application No. 09/372,459

ON BRIEF



Before THOMAS, HAIRSTON, and KRASS, Administrative Patent Judges.
KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1, 5, and 6. Claims 2, 7, and 10, the only other pending claims, have been indicated by the examiner as being directed to allowable subject matter and are not on appeal.

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The invention is directed to color adjustment of a color image sensor, best illustrated by reference to representative independent claim 1, reproduced as follows:

1. A method of adjusting an $n \times n$ color signal matrix used to multiply a column vector input color value, where n is a number of primary colors in a chosen color space, the method comprising:

adjusting a single first color signal matrix related value to obtain a color signal matrix adjustment; and

automatically adapting at least two color signal matrix parameters other than said single first color signal matrix related value in dependence upon said color signal matrix parameter adjustment.

The examiner relies on the following reference:

Bestenreiner et al. (Bestenreiner) 4,605,954 Aug. 12, 1986

Claims 1 and 5 stand rejected under 35 U.S.C. § 102(b) as anticipated by Bestenreiner, while claim 6 stands rejected under 35 U.S.C. § 103 as unpatentable over Bestenreiner.

Reference is made to the brief and answer for the respective positions of appellant and the examiner.

OPINION

A rejection for anticipation under Section 102 requires that the four corners of a single prior art document describe every element of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. In re Paulsen, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

With regard to claims 1 and 5, the examiner points to column 4, lines 47-60, and column 5, lines 18-27, of Bestenreiner for a teaching of adjusting a single first color signal matrix related value to obtain a color signal matrix adjustment; and to column 5, lines 18-27, of Bestenreiner for a teaching of automatically adapting at least two color signal matrix parameters other than said first color signal matrix related value in dependence upon said color signal matrix parameter adjustment. The examiner relies on Bestenreiner's "k" value, or, rather, the "common adjusting factor $1/k$ " (Bestenreiner-column 4, line 41) for the claimed "single first color signal matrix related value." In the examiner's estimation, the two color signal matrix parameters adapted would be Bestenreiner's modified red R' and blue B' values.

Appellant argues that Bestenreiner does not teach or suggest adjusting a "single" first color signal matrix related value to obtain a color signal matrix adjustment. Appellant points to the cover figure of Bestenreiner where R' and B' are "both" obtained in response to a user adjustment device 7, and a "single" G value is obtained in response to values R' and B'. Thus, it is appellant's view that Bestenreiner operates in an "opposite" manner from the instant claimed invention in which a single value is adjusted, leading to an automatic adjustment of multiple other values (see page 5 of the brief).

We have considered the evidence before us, including the disclosure of the Bestenreiner reference and the arguments of appellant and the examiner, and we conclude therefrom that the examiner has established a prima facie case of anticipation with regard to the instant claimed subject matter.

The claims call for adjusting "a single" first color signal matrix related value. The adjusting factor $1/k$ in Bestenreiner is applied to both adjustable resistors 9 and 10 in order to provide for adjustment to "both" color signal matrix related values R and B, rather than a single color signal matrix related value. While that is true, the examiner is not interpreting the R and B values

as the claimed "single first color signal matrix related value." Rather, the examiner interprets the adjustment device 7 of Bestenreiner as providing the claimed "single first color signal matrix related value." The claims do not require an adjustment to a color signal matrix, but only to a "single first color signal matrix related value" (emphasis added). The value $1/k$ provided by Bestenreiner's adjustment device 7 is a "single" value and it is a value that is "related," as broadly claimed, to a first color signal matrix. It is "related" in the sense that it will be used to adjust the resistor 9 or 10 in order to modify, respectively, color signal matrix R or B. Further, in dependence on the color signal adjustment in Bestenreiner, at least two color signal matrix parameters R and B are automatically adapted (to become R' and B').

Accordingly, as broadly claimed, the examiner has set forth a reasonable interpretation of the instant claims and as to how Bestenreiner anticipates those broad claims. While the examiner has set forth a rationale basis for rejecting the claims by urging the adjustment value $1/k$ as the single first color signal matrix related value, appellant has failed to respond to this interpretation. Not only was appellant aware of the examiner's position in interpreting Bestenreiner's k value in this manner at least as early as the February 8, 2005 Office action, and could

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have responded to this interpretation in the brief, but appellant could have, but did not, filed a reply brief contesting the examiner's position which was repeated in the answer (page 3). For whatever reason, appellant did not do so. Therefore, we have a reasonable case of anticipation set forth by the examiner versus a non-response from appellant as to the examiner's application of Bestenreiner's k value. Accordingly, we find for the examiner as appellant has not convinced us of any error in the examiner's rationale.

Therefore, we will sustain the rejection of claims 1 and 5 under 35 U.S.C. § 102(b).

With regard to claim 6, appellant relies on the same arguments made supra, with regard to claims 1 and 5, failing to argue the examiner's position that it would have been obvious to have sensed an image in a camera.

Accordingly, we will also sustain the rejection of claim 6 under 35 U.S.C. § 103.

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The examiner's decision is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv)

AFFIRMED

JAMES D. THOMAS
Administrative Patent Judge

KENNETH W. HAIRSTON
Administrative Patent Judge


ERROL A. KRASS
Administrative Patent Judge

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